

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Robert J. JOHNSTON

Serial No. 10/076,313

Filed: February 19, 2002

For: COAT BASED ORGANIC  
GROWTH COMPOUND



Group Art Unit: 3643

Examiner: Parsley, D.J.

**TERMINAL DISCLAIMER**

(by Attorney)

**Re: Double-Patenting Rejection**

Commissioner of Patents  
U.S. Patent and Trademark Office  
2011 South Clark Place  
Customer Window  
Crystal Plaza Two, Lobby, Room 1B03  
Arlington, VA 22202

Sir:

The undersigned petitioner, an attorney of record, is hereby acting for the under-named entity which is the 100% owner of all rights, title and interests in and to the above-noted application as shown by the Assignment recorded on April 17, 2002 on Reel 012809, Frame 0006 and hereby disclaims the terminal part of the statutory term of any patent granted on the subject application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 145 to 156 and 173, as presently shortened (if at all) by any terminal disclaimer of the earlier granted United States **Patent No 6,391,078** to which said entity also has legal title. Petitioner hereby reserves the right to extend the term of the patent, which issues on this application, for regulatory delay or otherwise as the law allows. Petitioner hereby agrees that any patent so granted on the subject application shall be enforceable only for and during such period that it and the

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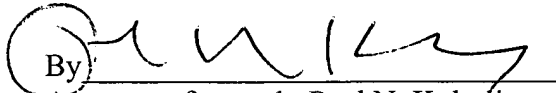
above-noted patent are commonly owned. This agreement runs with any patent granted on the subject application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the above-noted patent, as presently shortened by any terminal disclaimer, of the above-listed patent in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

The required Terminal Disclaimer fee (\$110.00) should be charged to Deposit Account No. 50-0310.

SOIL ENERGIZER, L.P.

By   
Attorney of record: Paul N. Kokulis  
Registration No. 16,773

Date: March 18, 2004